

**701—302.88(422) Net income from a farm tenancy agreement covering real property.** An eligible individual may elect to exclude net income from a farm tenancy agreement covering real property held by the individual for ten or more years from the computation of net income, if the eligible individual materially participated in a farming business for ten or more years.

**302.88(1) Definitions.** Unless otherwise indicated in this rule or required by the context, all words and phrases used in this rule that are defined under Iowa Code section 422.7(14) shall have the same meaning as provided to them under that Iowa Code section.

*“Disabled individual”* means an individual who is receiving benefits as a result of retirement from employment or self-employment due to disability. In addition, a person is considered to be a disabled individual if the individual is determined to be disabled in accordance with criteria established by the Social Security Administration or other federal or state governmental agency.

*“Held”* shall be determined with reference to the holding period provisions of Section 1223 of the Internal Revenue Code and the federal regulations pursuant thereto.

**302.88(2) Material participation.** Material participation for the purposes of this rule is determined pursuant to subrule 302.87(2) and the definition of “materially participated” in Iowa Code section 422.7(14). An eligible individual meets the material participation requirements if the individual materially participated in a farming business for ten years or more in the aggregate. When determining whether an eligible individual has stopped materially participating, the material participation test in subparagraph 302.87(2)“e”(5) and the material participation of a spouse shall not apply.

**302.88(3) Lifetime election.** An eligible individual may make a single lifetime election on a form prescribed by the department to exclude net income pursuant to a farm tenancy agreement covering real property. If an eligible individual makes the election described in this subrule, the eligible individual is not eligible to make an election to exclude the capital gain from the sale of real property used in a farming business or certain livestock under Iowa Code section 422.7(13) and rule 701—302.87(422) or claim the beginning farmer tax credit under Iowa Code section 422.11E in the same tax year or any subsequent tax year. The election is irrevocable once made.

*a. Beginning farmer tax credit.* A retired farmer shall not utilize an unclaimed amount of a beginning farmer tax credit in the same tax year the retired farmer is making an election described in this subrule or in subrule 302.87(3) or in any subsequent tax year.

*b. Surviving spouses.* A surviving spouse of a deceased eligible individual may make the election described in this subrule or the election described in subrule 302.87(3) subject to the provisions of subrule 302.87(3). For purposes of this subrule, “retired farmer” as used in subrule 302.87(3) has the same meaning as “eligible individual.”

*c. Joint owners.* An eligible individual may exclude income pursuant to the election described in this subrule or the election described in subrule 302.87(3) to the extent of the eligible individual’s ownership interest in the real property subject to the provisions of subrule 302.87(3). For purposes of this subrule, “retired farmer” as used in subrule 302.87(3) has the same meaning as “eligible individual.”

**302.88(4) Amount of exclusion.** An eligible individual that has made the election described in subrule 302.88(3) may exclude the amount of net income received from a farm tenancy agreement covering real property. An eligible individual may exclude net income from any qualifying farm tenancy agreement covering real property if the holding period requirements are met with respect to the real property in question, including agreements that are entered into after the single lifetime election is made. The amount of the exclusion cannot exceed the fair profits which would normally arise from a farm tenancy agreement between two parties operating at arm’s length.

This rule is intended to implement Iowa Code section 422.7(14).  
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